

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re LEHMAN BROTHERS INC.

Debtor.

Case No. 08-01420 (JMP)
SIPA

JAMES W. GIDDENS, as TRUSTEE for the
SIPA LIQUIDATION of LEHMAN
BROTHERS INC.,

Plaintiff,

v.

BARCLAYS CAPITAL INC.,

Defendant.

Adversary No. 09-01732 (JMP)

STIPULATION AND ORDER REGARDING CERTAIN DISPUTED ASSETS

WHEREAS James W. Giddens (the “Trustee”), as Trustee for the liquidation of the business of Lehman Brothers Inc. (“LBI”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.* (“SIPA”), and Barclays Capital Inc. and Barclays Bank PLC (collectively “Barclays,” and together with the Trustee, the “Parties”), based on the terms set forth below, have reached an agreement with respect to certain assets disputed between the Parties.

**IT IS HEREBY STIPULATED AND AGREED SUBJECT TO COURT
APPROVAL AND, UPON COURT APPROVAL HEREOF, IT IS ORDERED THAT**

1. After the Trustee satisfies in full all customer claims that are allowed as of the date of entry of the proposed order on the Trustee’s “Second Allocation Motion”¹ (which

1. “Second Allocation Motion” refers to the Second Motion for Order Approving the Trustee’s Allocation of Property, filed Dec. 1, 2011 (No. 08-01420 (Bankr. S.D.N.Y.), Docket No. 4760), as updated and supplemented

shall include, for the purposes of this stipulation, the allowed customer claims under the Trustee's settlements with Lehman Brothers International Europe (in administration)² and Lehman Brothers Holdings Inc.,³ whenever those settlement agreements become effective), and has set aside sufficient cash or securities as a reserve for any then still disputed customer claims (the date of completion of all of the foregoing, the "Allowed Claims Satisfaction Completion Date"), the Trustee shall, provided that the aforesaid settlement agreements become effective, pay Barclays \$769 million of property currently reserved pursuant to paragraph 8(ii) of the letter agreement dated as of September 20, 2008 among the Trustee, Lehman Brothers Holdings Inc., LB 745 and Barclays Capital Inc. (the "Clarification Letter"), the "Bankruptcy Court Orders" and the "District Court Judgment"⁴ (the "Paragraph 8(ii) Payment") within five (5) business days of the Allowed Claims Satisfaction Completion Date.

2. The making of the Paragraph 8(ii) Payment pursuant to the immediately preceding paragraph shall be:

(Footnote continued from prior page)

by the Statement in Further Support of the Second Motion for Order Approving the Trustee's Allocation of Property, filed Apr. 30, 2012 (No. 08-01420 (Bankr. S.D.N.Y.), Docket No. 5058); the Supplement to the Second Motion for Order Approving the Trustee's Allocation of Property, filed Jan. 31, 2013 (No. 08-01420 (Bankr. S.D.N.Y.), Docket No. 5685); and the Second Supplement to the Second Motion for Order Approving the Trustee's Allocation of Property, filed Feb. 26, 2013 (No. 08-01420 (Bankr. S.D.N.Y.), Docket No. 5790).

2. Settlement Agreement among the LBI Trustee, LBIE (by its Joint Administrators) and the Joint Administrators (as each party is defined in said agreement), dated Feb. 21, 2013. (No. 08-01420 (Bankr. S.D.N.Y.), Docket No. 5787, Exhibit A.)
3. Settlement Agreement between the Trustee and the LBHI Entities (as each party is defined in said agreement), dated Feb. 21, 2013 (No. 08-01420 (Bankr. S.D.N.Y.), Docket No. 5784, Exhibit A), as amended by Amendment No. 1 to Settlement Agreement, dated Apr. 15, 2013 (No. 08-01420 (Bankr. S.D.N.Y.), Docket No. 6010, Exhibit A).
4. Reference to the "Bankruptcy Court Orders" here refers to the following: Order Resolving the Trustee's Motion (No. 08-01420 (Bankr. S.D.N.Y.), Docket No. 4408) ¶ (b)(i); Order Resolving Barclays' Motion (08-01420 (Bankr. S.D.N.Y.), Docket No. 4409) ¶ (b); Order Resolving The Trustee's Amended Adversary Complaint (No. 09-01732 (Bankr. S.D.N.Y.), Docket No. 12) at 2-3). Reference to the "District Court Judgment" here refers to the Judgment of the court (No. 11-CV-6052 (S.D.N.Y.), Docket No. 42 and No. 11-CV-6053 (S.D.N.Y.), Docket No. 39) ¶ 3.

- a. in full satisfaction of the Trustee's obligations under paragraph 8(ii) of the Clarification Letter and any and all claims of Barclays with respect thereto, and in full satisfaction of the Bankruptcy Court Orders and the District Court Judgment; and
- b. deemed to constitute an application of the \$5.462 billion reserve described in the Proposed Allocation/Post-Filing Income Methodology Order,⁵ and shall reduce that reserve by \$769 million, and the parties shall make a joint motion to the District Court to reduce the reserve of \$4.6 billion as ordered by the District Court in its judgment dated July 16, 2012 (Docket 11-6052, Doc. No. 42 and Docket No. 11-6053, Doc. No. 39 ¶ 5).

3. For the avoidance of doubt, nothing in this stipulation shall act as collateral estoppel, res judicata or judicial estoppel, or prejudice any rights, defenses or arguments of the Parties, with respect to the Disputed Assets (as such term is defined in Barclays' Objection), including, without limitation, Barclays' claims that it is entitled to immediate payment of the \$769 million in securities referenced in paragraph 8(ii) of the Clarification Letter.⁶

By: /s/ Neil J. Oxford
Neil J. Oxford

By: /s/ Hamish P.M. Hume
Jonathan D. Schiller
Hamish P.M. Hume

Dated: April 15, 2013

Dated: April 15, 2013

5. See No. 08-01420 (Bankr. S.D.N.Y.), Docket No. 6015, Exhibit A.

6. "Barclays' Objection" refers to the Objection of Barclays Capital Inc. To Second Motion For Order Approving the Trustee's Allocation Of Property And To Motion For Entry Of Orders Approving Settlement Agreement Among The Trustee, LBIE (In Administration) And The LBIE Joint Administrators And Expunging Duplicative Claims (No. 08-01420 (Bankr. S.D.N.Y.), Docket No. 5936).

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*Attorneys for Barclays Capital Inc. and
Barclays Bank PLC*

SO ORDERED:

Dated: New York, New York
April 24, 2013

s/ James M. Peck
HONORABLE JAMES M. PECK
UNITED STATES BANKRUPTCY JUDGE